

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
JANUARY 12, 2016 – 6:00 P.M.
NEW CITY HALL
COUNCIL CHAMBERS/AUDITORIUM

Fred L. Fitch, Mayor
Presiding

Also Present:
Jerry Ihler, City Manager
Frank V. Jensen, City Attorney
Traci Hushbeck, City Clerk

Mayor Fitch called the meeting to order at 6:03 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Charles Barnett, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:

Bob Morford, Ward One
Keith Jackson, Ward Two
Rosemary Bellino-Hall, Ward Three
Dwight Tanner, Jr., Ward Five
Cherry Phillips, Ward Six
V. Gay McGahee, Ward Seven
Doug Wells, Ward Eight

ABSENT:

Jay Burk, Ward Four

EMPLOYEE SPOTLIGHT PRESENTATION TO STREET DIVISION EMPLOYEES:
DONALD COX, BRIAN NEELEY, MIKE SANCHEZ, MICHAEL SWANSON, MATTHEW
SISSON, MICHAEL WILHELMS, RICHARD CARLSON, DOUGLAS TRIMPY AND
COLTEN BREAK.

The City Manager and Mayor recognized Street Division Staff for their outstanding efforts.

AUDIENCE PARTICIPATION:

Carlos Irizarry, American National Insurance, stated he is here to discuss the restriction we have on canine insurance. In the past the council has asked that \$1 million liability be set up. It becomes very difficult for standard insurance companies to provide a total of \$1 million in coverage because certain dog breeds are technically ineligible. They would need to have a third party assist the customers, however these third parties only provide up to \$300,000 of liability coverage. He requested that they come up with a solution and suggested they drop the \$1 million liability request and set it at \$300,000 with an umbrella that could be provided by a third party insurance. He stated Councilmember Tanner has his information and he would like to put together a group of insurance professionals to come up with a better solution to this issue.

Mayor Fitch stated that item was rejected at the last meeting and it would have to be brought back by a council member.

Palmer Moore, 3911 SW Mesquite Drive, requested the support of the City of Lawton for the Juneteenth Celebration. He questioned if there was a contract with any other organization that is putting on the Juneteenth Celebration.

Mayor Fitch stated there is an organization that is a corporation and has been established for at least 20 years and they have had the support and will continue to have the support of the City and he does not think it is the desire of the council to extend that to have a competing event. He stated Mr. Moore was asked to come and be a part of that and he elected not to.

Mr. Moore stated he received a message from Mr. Dunaway to not come and was told the meeting was cancelled. When he did show up the Mayor told him that Mr. Johnson passed it on to Mr. Dunaway.

Mayor Fitch stated Albert Johnson, Sr. has been the chairman of this committee and did pass it along to Mr. Dunaway. He had a conversation with them and with Mr. Moore later that day and there is no way that the three could sit down and work something out that is compatible for the Juneteenth celebration.

Mr. Moore stated when he met with Albert Johnson, Sr., Bishop Dunaway and Willie Guest in September, he was told that Mr. Johnson was going to step down and he wanted him to take over and unite the community.

Mayor Fitch stated he was clearly told by Mr. Johnson that he did not want Mr. Moore to take over that program. He suggested that Mr. Moore go back to Mr. Johnson and Mr. Dunaway and get their support and then Mr. Moore can come back to the council.

Mr. Moore stated last year the Juneteenth celebration was cancelled and other organizations said that the City of Lawton cancelled it.

Mayor Fitch stated it was cancelled because of the incoming weather and it was not a decision of the council or the City of Lawton, it was made by the Juneteenth committee. Mr. Moore needs to go back to Mr. Johnson and Mr. Dunaway and work something out and then come back to the council and they will make a decision at that time.

Mr. Moore stated the \$6,000 was taken back by the City because of the cancellation, but they could have had it the next week. He stated his group did a Juneteenth in Elmer Thomas Park and he did ask for support from the City. The only thing he wants to change is the outlook they have on the youth in the community.

McGahee questioned if the Juneteenth celebration is usually chaired or overseen by Ward 7.

Mayor Fitch stated Ward 7 has been very active in the promotion of Juneteenth and was basically structured from people within Ward 7.

McGahee stated she would like to sit down with Albert Johnson, Sr. and if it has generally been sponsored through Ward 7 she would like it to continue. She can talk with Mr. Johnson about his recommendation for the chairman position and move forward with this. She does not want to see a fight among a celebration that is supposed to be uniting the community.

Mayor Fitch stated Juneteenth is supported by the City and the Juneteenth committee is the recipient of the City's participating in putting that event on. It is not a Ward 7 project, it is a project of Juneteenth Corporation, which was formed years ago. He would not say that it was tied to Ward 7 other than the fact that it does involve a lot of people in Ward 7. The negotiations are between the City of Lawton and the Juneteenth Corporation and the City has pledged their support to the committee to put this on again.

McGahee questioned if the Juneteenth committee was set through Ward 7.

Jackson stated the location of the event was always held in Ward 7 and the citizens of Ward 7, including Councilmember Haywood, are deeply involved in the celebration.

Mr. Moore questioned if there was a contract that says the City is obligated to that committee.

Mayor Fitch stated he does not know if there is one yet, but the commitment to Juneteenth committee will be approved by the council at a later time.

The Vice President of You-Us Lawton Community (did not give name) questioned if the City only supports the committee with money. He questioned if the City would support his group with the media and acknowledge that they are doing things in the community because it is not a competition, it is about trying to bring the young people together. They do applaud Mr. Johnson and Bishop Dunaway, but there are people doing different things with the same mission. They are asking the City to acknowledge his group as an organization that will also be a part of the Juneteenth celebration and to use the support of the City as far as newspaper, radio and TV.

Wells stated the celebration is historically important and he would hope everyone would get together and work out a program instead of having competing events. It is important to this community and everyone needs to work together for the youth of this community. He stated they can always put something in writing and submit to council.

CONDUCT ELECTION OF MAYOR PRO TEM

MOVED by Wells SECOND by Tanner to nominate Keith Jackson. AYE: Morford, Bellino-Hall, Tanner, Phillips, McGahee, Wells. NAY: None. ABSTAIN: Jackson. MOTION CARRIED.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETINGS OF NOVEMBER 10, NOVEMBER 24 AND DECEMBER 8, 2015.

MOVED by Wells SECOND by Phillips to approve the minutes of Lawton City Council regular meetings of November 10, November 24 and December 8, 2015. AYE: Morford, Jackson, Bellino-Hall, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

CONSENT AGENDA

Mayor Fitch stated item #1 will be discussed separately.

MOVED by Wells SECOND by McGahee to approve the consent agenda with the exception of item #1. AYE: Morford, Jackson, Bellino-Hall, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for denial: Chu Pae, through his attorney Richard Morrisette in the amount of \$1,500,000.00. Exhibits: Legal Opinion/Recommendation.

Steven Greb, Assistant City Attorney, stated that staff does recommend denial of this claim. There is no lawful basis for this claim. Mr. Chu Pae claims that the City wrongfully demolished three structures on his property on Fort Sill Boulevard and he also claims that the City of Lawton did not give him adequate notice of the hearing where the City Council declared the structures as a public nuisance. Both of those assertions are incorrect. He stated the City of Lawton exercised lawful authority in taking the action it did with both adopting the resolution that caused these properties to be declared a nuisance and demolishing and removing the structures. Title 11, Section 22-121 states that a municipal governing body may declare what shall constitute a nuisance and provide for the prevention, removal and abatement of the nuisance. That is what this council and staff has done. Title 50, Section 16 says that cities and towns shall have the right and power to determine what is and what shall constitute a nuisance within the respected corporate limits, and it shall have the power to abate that nuisance. In Title 11, Section 22-112 says that a municipal body may cause a dilapidated building within the corporate limits to be torn down or removed in accordance with following procedures and it goes on to list an extensive amount of procedures to be followed. He stated the City of Lawton followed those procedures. It says that we have to give ten days notice to the property owner before the governing body holds a hearing. We did send Mr. Pae a notice of hearing at the address required by state statute. We also posted the notice on the property. On September 23, 2014 the council adopted Resolution 14-128. Council had adequate notice, information and evidence to make that determination. They had a list of the violations of city code that were present on that property. Mr. Griffith, Neighborhood Services Supervisor, came to council and reported what he and his staff had observed on that property. He also showed council photographs of the conditions of the structures on that property and council made that determination and the city exercised lawful authority pursuant to that determination. Mr. Pae had actual notice of the time and place of the hearing and he could have attended that hearing. In addition to the notices posted on the property, prior to that hearing Mr. Pae and his wife came to Mr. Griffith's office because they had notice that the council was going to take action on that property. They knew beforehand and they came to ask for some accommodation. Mr. Griffith gave them a copy of the notice of hearing. They had adequate notice and they knew what was going on but they chose not to attend this hearing. Under the statute 21-112 states that any action to challenge an order of the

municipal governing body shall be filed within 30 days from the date of that order. Mr. Pae did not do that and by failing to do that he has waived any opportunity he has to challenge this city council's action of September 23, 2014. Assuming, for arguments sake, that perhaps we did make some mistakes along the way, given the facts of this case, the governmental tort claims act provides a specific exemption that applies in this case. Title 51, Section 155 says that a state or political subdivision shall not be liable for a loss or claim that results from an adoption, enforcement or failure to adopt a law whether valid or invalid, including but not limited to any statutes, charter provision, ordinance, resolution, rule, regulation or written party. On September 23, 2014, this council adopted a resolution declaring the structures on that property to be dilapidated, detrimental to the health and public safety of the community and a public nuisance and ordered those properties to be removed. They were not removed until January 30, 2015. Mr. Pae had 87 days to do something, file an action in court for an injunction against the City preventing us from taking any action that was authorized. There is no lawful claim for granting Mr. Pae's governmental tort claim and he is asking that the council deny this claim.

Richard Morrisette, attorney for the claimant, stated he is also an Oklahoma State Representative for House District 92. He stated Mr. Pae is contesting that he received proper notice in this matter. Mr. Greb indicated that the City made some mistakes and mistakes are critical to this case because it all centers on notice. If Mr. Pae received proper notice and knew that the building was going to be demolished, he would have relocated over \$100,000 worth of laundry equipment from the building. Because of the lack of proper notice, the building was destroyed along with valuable laundry and other equipment stored.

(Mr. Morrisette distributed photos)

Mr. Morrisette stated that inside the building were family heirlooms which are irreplaceable and Mr. Pae's property rights under the United States and Oklahoma constitution were violated. Mr. Pae failed to receive the proper notice in this manner and his due process rights were violated. The property that allegedly belongs to Mr. Pae was based on his father's property. Mr. Pae's father passed away on July 30, 2014 and on August 20, 2014, the City of Lawton sends out a mailing to the address that he previously lived at. He vacated the property he was residing at on August 1, 2014, a day or two after his father dies. The notice was never sent by certified mail, nor did a process server determine to find out where Mr. Pae resides. The city ordinances and state statutes must take second place to the United States Constitution.

Tanner stated he received a call from someone so he went by and looked at the car wash and someone had stolen the metal grates and there is a 2-3 foot drop and people walking through there could hurt themselves. That was definitely a hazard to the community and he told whoever called that they had the right to go get a remodeling permit and fix it up. The City just wants the owners to correct some issues. He stated the pictures Mr. Morrisette distributed are not representing the property he was looking at.

Jackson questioned if the council is trying this case here on the council floor.

Jensen stated that the council is not going to understand all these legal arguments.

Jackson stated the council, at some point, should cut this discussion off and have these folks proceed to the property direction.

Jensen stated he recommended to the Mayor that he give Mr. Morrisette the same amount of time as he gave Mr. Greb.

Mr. Morrisette stated the Baldwin case dictates to the Supreme Court that due process is an absolute necessity before the taking of property and a mistake was made, as admitted to by the City, but it was a critical error mistake. It can't be overlooked by ordinances or state statutes, notice is a necessity in any court of law and in this case it was not done properly. He requested that the claim be accepted.

Wells stated if Mr. Pae was not notified, why did he show up for a meeting and discuss the issue.

Mr. Morrisette stated his family had heard through the grapevine that there was something going on at the council meeting on September 23, 2014 and his clients met with Mr. Griffith on that day. Mr. Griffith told them that they did not have the proper paperwork or documents to contest the action of the resolution that was to be presented and he suggested they not show up. They were in the building at 5:00 p.m. and were told by Mr. Griffith to leave.

Phillips questioned where they go from here.

Jensen stated they are recommending denial of the claim. He stated, for the record, Mr. Greb did not admit to anything as far as errors being made, he said that if you want to make that assumption, he has further defenses to rely on. He has never heard any report of Mr. Griffith discouraging somebody from attending a hearing.

Mayor Fitch stated there has been a recommendation of denial of the claim and Mr. Morrisette has other venues they can take.

MOVED by Jackson SECOND by Morford to deny the claim of Chu Pae, through his attorney Richard Morrisette in the amount of \$1,500,000.00. AYE: Morford, Jackson, Bellino-Hall, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

2. Consider approving an Agreement for Limited Services between the Lawton Enhancement Trust Authority (LETA) and the City of Lawton to fund activities by LETA designed to encourage, promote and foster economic development in the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Agreement for Limited Services and LETA Budget.
3. Consider accepting donation of an X-Ray Machine with Developer, film and light box from Meadow Wood Animal Hospital, valued at \$10,000.00, to aid in the care and maintenance of animals housed at the City of Lawton, Animal Welfare Division shelter. Exhibits: None.
4. Consider approving a resolution notifying the public of the publication of the Lawton City Code, 2015. Exhibits: **Resolution 16-01**.
5. Consider accepting the reimbursement check of \$752.79 from Oklahoma County

Emergency Management, and approving the deposit of these funds into the Lawton Fire Operations Professional and Technical Services account (001-1195-000-00-02310000). Exhibits: None.

6. Consider acknowledging receipt of Tier I permit from the Oklahoma Department of Environmental Quality for the construction of 71 linear feet of 8-inch PVC and 336 linear feet of 12-inch PVC waterline and all appurtenances to serve Salas Urban Cantina located at 247 E. Gore Boulevard in the SW/4 of Section 29, T2N, R11W, Comanche County, Oklahoma. Exhibits: Permit to Construct is on file in the City Clerk's Office.
7. Consider approving the record plat for The Green Tract located on the south side of SW F Avenue, west of SW 17th Street. Exhibits: Plat Map.
8. Consider approving the construction plans for an 8-inch waterline and an 8-inch sanitary sewer line to serve the Great Plains Technology Center Business Incubator Facility located at 1601 SW Park Ridge Boulevard subject to conditions. Exhibits: Location Map.
9. Consider approving Resolution Number 16-__ approving filing of a grant for federal assistance from the Department of Interior, Bureau of Reclamation, Policy and Administration for Federal Fiscal Year 2016, approving the application and authorizing the Mayor and the City Clerk to execute the same. Exhibits: **Resolution Number 16-02**. The Grant Synopsis is on file in Public Works Administration office.
10. Consider adopting a resolution for the selection of a consulting engineer to conduct the bi-annual inspections required by the National Bridge Inspection Standards (NBIS) Program. Exhibits: Letter from ODOT and **Resolution 16-03**.
11. Consider approving Amendment No. 2 to the December 9, 2014 contract with Garver, LLC, which will add professional and technical services for hydrological and geophysical exploration survey, processing of the data, drilling of deep test holes in Arbuckle Timbered Hills aquifer, exploratory reconnaissance of alluvial aquifer to identify the most suitable locations for construction of Production Wells and River Bank Filtration Collectors. Exhibits: Amendment to the Agreement.
12. Consider accepting an easement agreement from Mary Lou Johnson, Trustee of the William Carey Johnson Revocable Trust U/T/A amended and restated July 22, 1997 and Mary Lou Johnson, Trustee of the Mary Lou Johnson Revocable Trust U/T/A amended and restated July 22, 1997, for right of way needed for the 2nd Street Improvement Project Phase 1 (Columbia to Ferris) Project# 2014-03, authorizing the Mayor and City Clerk to execute the document and authorizing payment for the same. Exhibits: Location map. Document is on file in the City Clerk's office.
13. Consider accepting a permanent easement from Kyle and Courtney Woodward, husband and wife, for right of way needed for the SW Bishop Road Reconstruction, Project# 2015-04, authorizing the Mayor and City Clerk to execute the document and

authorizing payment for the same. Exhibits: Location map. Document is on file in the City Clerk's office.

14. Consider awarding a contract to Pippin Brothers, Plumbing Heating and Air Conditioning for the McMahon Memorial Auditorium Chiller and Boiler Replacement Phase I Project #2015-02. Exhibits: A copy of the contract is on file in the City Clerk's office.
15. Consider extending contract (RFPCL15-023) Jail-n Telephone System with Legacy Inmate Communications of Cypress, CA. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
16. Consider approving appointments to boards and commissions. Exhibits: None.

City Planning Commission (CPC)

Charlotte R Perkins
2008 SW Monroe Avenue
Lawton, Oklahoma 73501
01/11/19

Historical Preservation Commission

Cherry Phillips
6931 NW Eisenhower Drive
Lawton, Oklahoma 73505
01/27/18

Deborah Jones
2920 NW Templeton Terrace
Lawton, Oklahoma 73505
01/27/18

Investment Committee

Brian Henry
6425 NW Cache Road
Lawton Oklahoma 73505
01/27/19

Pat Henry
2601 NW Lake Ridge Drive
Lawton, Oklahoma 73505
01/27/19

Lakes & Land Commission

Mike Slavin
#1 Goodyear Blvd.
Lawton, Oklahoma 73505
01/23/13

Mayor's Commission On The Status Of Women

Tiffany Spears
Eastern County Commissioner
440 NE Sunset Drive
Elgin Oklahoma 73538
01/01/18

Jennifer M. Tuttle
At Large City Limits
1906 SW Parkgrove Drive
Lawton, Oklahoma 73505
02/25/18

Parks & Recreation Commission

Terry Brierton
1314 NW Maple Avenue
Lawton Oklahoma 73507
01/01/18

Kern Kamauna
702 NW Dearborn
Lawton, Oklahoma 73507
01/10/18

David Madigan
Mayor's Appointment
4330 NW Cache Road
Lawton, Oklahoma 73505
01/01/18

Anthony Cox
Mayor's Appointment
7203 NW Willow Place
Lawton, Oklahoma 73505
01/01/18

Jason Wells
3707 NE East Lake
Lawton, Oklahoma 73507
01/01/18

Jason Davis
236 SE Sungate Boulevard
Lawton, Oklahoma 73501
01/01/18

Waurika Master Conservancy District Board

Justin Phelps
7708 Stonegate Drive
Lawton Oklahoma 73505
02/08/20

Larry Neal
325 NW Ridgeview Way
Lawton, Oklahoma 73505
02/06/20

17. Consider approval of payroll for the period of December 21, 2015 – January 3, 2016.

Mayor Fitch stated he needs to make a correction on item #16. He stated the term of Mr. Kern Kamauna is not up until 2018. He would like to strike that name from the appointments.

MOVED by Wells SECOND by Jackson to reconsider consent agenda. AYE: Morford, Jackson, Bellino-Hall, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

MOVED by Wells SECOND by Phillips to approve the consent agenda items #2 through #17 with the exception of the appointment of Mr. Kern Kamauna on item #16. AYE: Morford, Jackson, Bellino-Hall, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

NEW BUSINESS ITEMS:

18. Hold a public hearing and consider a resolution amending the 2030 Land Use Plan from Professional Office/Transition to Commercial and an ordinance changing the zoning from R-1 (Single-Family Dwelling District) to C-1 (Local Commercial District) zoning classification on property located at 2102 NW Atlanta Avenue. Exhibits: Resolution No. 16-__, Ordinance No. 16-__ with Site Plan, Location Map, Applications and Draft CPC Minutes.

Richard Rogalski, Community Services Director, stated this request is for the East 130 feet of Lot 15, Block 1, Stephens Addition, located at the southwest corner of NW Sheridan Road and NW Atlanta Avenue. The applicant is Staci Owens. The proposed use of this lot is an automated teller machine. The zoning of the surrounding area is R-1 to the north and west, C-1 to the south, and C-5 (General Commercial District) to the east across Sheridan Road. The land use of the surrounding area is single-family residential to the north and west, vacant and restaurant to the south, and commercial (dry cleaners, restaurant, retail, and day care center) to the east. This lot is the only lot designated as Professional Office/Transition on the west side of

NW Sheridan Road between Atlanta and Cache Road. The proposed use is an automated teller machine with a cover. Per Section 6-1-5-185 of the Lawton City Code any area or space under a roof is considered a building whether or not said space is enclosed by walls. Therefore, a 6-foot wide sidewalk would be required along Sheridan Road and a 4-foot wide sidewalk would be required along Atlanta Avenue. While Sheridan Road is a principal arterial and sidewalks are a high priority along arterials, Atlanta Avenue is a local street leading to a single-family residential neighborhood. The construction plat for this subdivision did not include sidewalks, and therefore any new single-family residential construction would not require the construction of sidewalks. Due to the nature of this project, the City Planning Commission recommended waiving the requirement of the sidewalk along Atlanta Avenue by the City Council.

There is an existing 5-foot wide utility easement along the west property line of this property, and the Public Works Department has requested an additional 7.5-foot wide utility easement. When this lot was platted in 1946, the standard width of utility easements was 10 feet, typically 5 feet on each lot. Currently, the standard utility easement width is 25 feet, typically 12.5 feet on each lot.

On December 10, 2015, the City Planning Commission (CPC) held a public hearing on this request. No one appeared at the public hearing to speak for or against the request. The CPC, by a vote of 8 to 1, recommended approval of the request subject to revisions to the site plan to meet City Code requirements and the provision of an additional 7.5 feet of utility easement along the west side of the property. As stated earlier, the CPC recommended waiving the requirement of the sidewalk along Atlanta Avenue. The applicant has submitted a revised site plan in accordance with the CPC's recommendation.

Phillips questioned if we are setting precedence by waiving the sidewalk on Atlanta.

Rogalski stated yes, to a certain extent. If someone was developing along Rogers Lane we don't require a sidewalk and ODOT does not want a sidewalk, and you don't charge a fee in lieu of because we simply are not requiring the sidewalk. This is a case where you could build the sidewalk but the question is if it would really go there. Another option would be to direct staff to accept the fee in lieu of so that if there was every money put together to put in sidewalks in that neighborhood, we would have that fee in lieu of for that section. The fee would be just over \$2,000.

Phillips questioned if the property across Atlanta is still R-1.

Rogalski stated yes. If it was rezoned it would have the same issues.

Phillips stated her concern is the precedence and how many times are we going to be confronted with something like this.

Wells stated we can require the fee in lieu of so that if sidewalks ever do get built we would have the money to put the sidewalk in. This would be a sidewalk to nowhere. He would hope the council would waive it but require the fee in lieu of.

Tanner stated this would be a \$2,000 expense that we are passing along to the property owner and in his opinion it would be unnecessary if we are not going to get sidewalks built through the rest of the neighborhood. He does not see the need to pass this cost along to the property owner. He agrees with putting the sidewalk along Sheridan Road. He does not feel that we are setting a bad precedence by not requiring the property owners to do these types of things.

Wells stated we have done that in another case and required them to put up funds in lieu of. The funds don't necessarily sit in the bank until the sidewalks were put in, but we would have a record and those funds could be used someplace else for sidewalks.

Jackson stated we have asked staff to use some common sense in some areas with developers and builders and this is an area that he feels Mr. Rogalski has made a good decision. He cannot go for the charge as well.

Wells stated he does not feel this would be in accordance with the lawsuit agreement that we would build sidewalks for handicap/disabled, etc. If we are going to make that exception you would basically be saying that if someone comes up here with an exception then we are never to charge the money to get sidewalks built in this community. Sidewalks are too important for the community. The requirement is that you put in a sidewalk. If we are not going to require the money then he would only go for this if we require a sidewalk.

Phillips stated the precedence is what concerns her and what does this set us up for.

Tanner stated to him it sets us up for using common sense. There is no need to force a property owner to spend money. If he thought we were going to add sidewalks to this in the future he would not mind adding the fee in lieu of, but he does not see the need to pass the \$2,000 cost along to the property owner.

Wells stated Mr. Tanner's definition of common sense and his are two different things.

Bellino-Hall asked for clarification that the money would go into a fund that could be used for sidewalks in other areas.

Rogalski stated yes, it would go into a fund for sidewalks anyplace.

Bellino-Hall stated they can afford \$2,000 and we need sidewalks.

PUBLIC HEARING OPENED.

Johnny Owens, 1125 NW Cherry, stated he was representing his daughter Staci Owens. He stated he has nothing against putting money in a fund for sidewalks, but if he is going to spend \$2,000 he would rather put it in his own property.

Mayor Fitch stated the Mr. Owens would just as soon put the cost of the sidewalk down Atlanta.

Mr. Owens stated yes.

Tanner stated he would have preferred to do the sidewalk on Sheridan, but since we are possibly going to charge him the fee in lieu of, he might as well spend that money on the sidewalks.

Mayor Fitch stated that Mr. Owens is in agreement with what he was initially asked to do which is to build the sidewalk.

MOVED by Morford SECOND by Wells to adopt **Resolution 16-04**. AYE: Morford, Jackson, Bellino-Hall, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

MOVED by Morford SECOND by Wells to adopt **Ordinance 16-01**, waive the reading of the ordinance, read the title only and establishing an effective date of June 1, 2014. AYE: Morford, Jackson, Bellino-Hall, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 16-01

An ordinance changing the zoning classification from the existing classification of R-1 (Single-Family Dwelling District) to C-1 (Local Commercial District) zoning classification on the tract of land which is hereinafter more particularly described in section one (1) hereof; approving the binding site plan attached as Exhibit A; and authorizing changes to be made upon the official zoning map in accordance with this ordinance.

19. Consider receiving a presentation from Progressive Waste Solutions of TX, Inc. regarding a voluntary curbside recycle program and take appropriate action. Exhibits: None.

Mike Gaver, Progressive Waste, stated they are the third largest trash company in the U.S. The northwest Texas district is more of a municipal trash hauling. They serve 65 cities with trash and recycling needs and that includes Fort Sill where they do trash collection and residential curbside recycling. They do curbside recycling at Altus Air Force base and Sheppard Air Force Base. In 2013 they submitted a proposal on building a MURF, which is a material recovery facility, or a sort center, for all recycling material. They took several city members to their MURF in McKinney, Texas for a visitation, and the plan was to copy that and build one in Lawton. In 2013 the cost was just too high to build that facility and do the curbside collection. They worked with city leaders and came up with something that may work for Lawton citizens because it is voluntary.

(Mr. Gaver presented a power point presentation which is available in the City Clerk's Office.)

Mayor Fitch questioned if a facility is built after the 8,500 commitment, is it a public-private partnership in the construction or is Progressive responsible for the cost.

Mr. Gaver stated there are some factors they don't know about because there could be a possibility of working with Fort Sill. Every proposal that they have put in is Progressive building the facility inside the city limits and they would manage it and run it.

Mayor Fitch questioned if Fort Sill and the surrounding communities would use that facility.

Mr. Gaver stated yes, they service almost every city around Lawton and Wichita Falls. They would be bringing all that material to the MURF and they would find local vendors to buy the materials. Those that are not sold would be shipped back to their MURF in McKinney.

Wells stated he and Councilmember Burk have been working on this for 3 or 4 years, and now with Councilmember Phillips, and they have looked at a lot of things. Financing is a major issue every time. He stated they are hoping to get the surrounding military bases to join in and build this facility. The committee feels this is a wonderful program and he is optimistic that they can get 5,000 residents signed up the first month or two. This is the way to do it without affecting the cost for low income citizens.

MOVED by Wells SECOND by Phillips to direct staff to obtain a commitment from a minimum of 5,000 households to determine the viability of a voluntary, curbside recycling program.

Bellino-Hall stated if this takes 70% of the trash, why do we have twice a week trash pickup?

Mr. Gaver stated at the end of the day there will not be a need for that second route and it will also save the City money.

Bellino-Hall questioned if there was a reason we couldn't do that now.

Wells stated you would have to charge all citizens \$7 a month.

Mayor Fitch stated we would have to be 100% on the recycling program in the city in order to go to the once a week trash. You have to keep twice a week for trash and one day a week for recycling. Not everyone is going to volunteer for this and you put them at a disadvantage because they are still putting recyclables and trash in their city container.

Bellino-Hall questioned if we went to once a week trash pickup and Progressive picked up the recyclables once a week, what would Progressive charge the City to do that?

Mr. Gaver stated is they have to build a MURF, the cost would be over \$7. Right now the recycling market is at its lowest and that is why the cost is higher now. In the proposal there was a revenue sharing of the materials over a certain amount with the City of Lawton, but that rate was about \$7.50 a home. That would be every home and they would be building a facility immediately. He stated out of all the 65 cities they serve, there is no city that offers twice a week trash service. They offer additional containers. Fort Sill used to be on twice a week and they converted them to once a week before recycling, and then added recycling later.

Bellino-Hall stated if everyone in the city participated in recycling then they would have to build a facility.

Mr. Gaver stated when they get to 8,500 homes they are going to reach capacity on how much material they can handle. If they went to 32,000 homes they would have to have a facility here.

Mayor Fitch stated this is a perfect way to get into the recycling program and watch it grow. It is going to take a tremendous amount of effort to educate the community and make them buy into recycling.

Tanner stated all the phone calls he has received have been supportive of this program. He feels this will be good for the city.

Phillips stated this proposal fits Lawton and it gives the City an opportunity to see how many people want to recycle and are willing to pay for it. She would like to see it go city wide.

Wells stated this is a wonderful solution that hopefully will bring the city to the recycling effort throughout the city and it does not impose something on the citizens that don't want to participate right now.

Jackson stated in the 1980's they discussed recycling programs but it just could not culminate into a positive project. He commended the committee for the work they have done in putting this together.

Ihler stated once they reach 5,000 participants they are still looking at 120 days to get the trucks and get all the containers. They need to get the marketing started.

Bellino-Hall questioned how Progressive gets paid.

Mr. Gaver stated they will bill the City monthly. He stated it will be put on the water bill like any other service.

Ihler stated they already have accounts set up for picking up trash and so they will add \$7 to the bills and then the City will pay Progressive.

Mr. Gaver stated if there are 3,000 or 4,000 signed up immediately they will go ahead and get started.

Ihler stated they will start a marketing campaign immediately which will outline how citizens need to sign up.

David Carter, 813 NW 41st, stated trash collection is at the top of the list of the most appreciated and liked city business. He stated the city services are police, fire and trash. Trash has become the backbone of the budget. He stated trash service twice a week is vital and if the City goes back to four bulk pickups they could go back to the recycling centers. The City needs to do something with recycling that does not carry a cost.

Tanner stated the bulk trash pickup this fall was cancelled because of manpower issues.

Ihler stated with regards to the bulk pickups, they will allow citizens to call in and schedule two free bulk pickups a year.

Bellino-Hall stated that Trash Off is a very important event and will help citizens.

Mike Dudley, 1006 B Avenue, stated this program sounds fantastic, but the citizens do not want to see an additional charge added to their water bill. He feels it would be better if there was a separate bill.

Ihler stated the solid waste collection is already on the utility bill. It makes no sense to pay to have another mailing sent out.

Citizen (did not give name) questioned if the fee is reduced if we get more than 5,000 participants.

Mr. Gaver stated no.

Citizen questioned the cost of a third bulk pickup.

Ihler stated a third pickup would be approximately \$110.

Citizen questioned the percentage of residential trash versus commercial trash in our landfill. She questioned if commercial businesses would be able to recycle.

Mr. Gaver stated they currently offer recycling for commercial.

Larry Wolcott, Public Works Director, stated the business waste intake tonnage exceeds residential.

Bellino-Hall questioned if Progressive picks up for businesses in town.

Wolcott stated yes. The City of Lawton also has commercial pick up, but they pick up all residential.

Sharon Anderson, citizen, questioned why Progressive cannot bill separately. She stated there are a lot of people in support of this but they would prefer not to pay through the City of Lawton.

Mayor Fitch stated the City has the mechanism in place to bill the customer and receive the payment.

Wells stated if Progressive had to direct bill then the price would go up.

Mr. Gaver stated if they had to bill directly then it would almost be double the cost. They don't have a way to go after bad debt. It is really the City's recycling program and they are really the subcontractor. The only way to keep the cost down is to partner with the City.

Phillips stated that if the citizen decides they don't want to participate it will come back off their water bill.

VOTE ON MOTION: AYE: Morford, Jackson, Bellino-Hall, Tanner, Phillips, McGahee, Wells.
NAY: None. MOTION CARRIED.

20. Consider approving an ordinance adopting the Lawton City Code, 2015, and establishing an effective date. Exhibits: Ordinance 16-__.

MOVED by Wells SECOND by McGahee to adopt **Ordinance 16-02**, waive the reading of the ordinance, read the title only and establishing an effective date of thirty days from today. AYE: Morford, Jackson, Bellino-Hall, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 16-02

An ordinance adopting and enacting a code of ordinances of the city of Lawton, Oklahoma: providing for the repeal of certain ordinances not included therein, except as hereafter provided; providing for the effective date of the Lawton City Code, 2015; providing for the sale and copies in the City Clerk's Office; providing for supplements or changes to code; providing for noncodification; and establishing an effective date for this ordinance.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Wells stated that every community in the country relies on sales tax to operate and by ordering online every state is complaining to the federal government that they cannot collect sales tax unless the federal government passes a new law. When we run short of money because sales tax is not coming in, we have no choice but to raise water rates to provide services to the citizens. Until the federal government passes a law saying that states and communities can collect taxes on those sales, it is really hurting the community when you don't shop locally.

Bellino-Hall stated we are seeing signs on streets now about sharing the lane with a bicycle. It is a law now that a motor vehicle must give at least three feet of space when passing a bicycle.

The Mayor and Council convened in executive session at 8:15 p.m. and reconvened in regular, open session at 9:29 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEMS:

21. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to review the employment of Nathan M. Johnson as Municipal Judge, and in open session take other action as necessary. Exhibits: None.

Mayor Fitch read the title of item #21.

Wells stated the council is very pleased with the performance of Judge Johnson.

MOVED by Wells, SECOND by Jackson to approve the same 3% pay increase as general employees with the same effective date as the general employees cost of living increase. AYE: Morford, Jackson, Bellino-Hall, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

22. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2016-2017 between the Police Union, IUPA Local 24, and the City of Lawton, and, if necessary, take appropriate action in open session. Exhibits: Memo dated 12/16/15.

Jensen read the title of item #22.

MOVED by Wells, SECOND by McGahee for the FY 2016-2017 negotiations with IUPA local 24, I move to appoint Tim Wilson as the City's chief negotiator and further move to appoint Bart Hadley, Chase Massie, Kelea Fisher and Assistant Chief James Apple to the negotiating team. AYE: Morford, Jackson, Bellino-Hall, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

23. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending action/claim involving the electric utility relocation costs associated with the Lawton Downtown Redevelopment Project within Tax Increment Financing District No. 2, and take appropriate action, including considering approval of an agreement to arbitrate, in open session as necessary. Exhibits: None.

Jensen read the title of item #23.

MOVED by Jackson, SECOND by Wells to authorize the agreements with Dispute Resolution Consultants and Public Service Company of Oklahoma to resolve by binding arbitration the dispute between the City/LEDA and PSO over the amount of cost PSO has billed for the relocation of its electrical lines and facilities necessary for the Lawton Downtown Redevelopment project with retired Judge Edward Cunningham to serve as the neutral arbitrator at the rate of \$350 per hour to be split equally between City/LEDA and PSO and authorize the Mayor and City Clerk to execute the agreements. AYE: Morford, Jackson, Bellino-Hall, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 9:32 p.m. upon motion, second and roll call vote.

FRED L. FITCH, MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK